

(2006) 04 GAU CK 0035
In the Gauhati High Court

R.K.Deben Singh and Ors.

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

Date of Decision : 15-04-2006

Acts Referred:

Citation : (2006) 04 GAU CK 0035

Hon'ble Judges : T.Nanda Kumar Singh, J

Bench : Single Bench

Advocate : Y.Nirmolchand, R.S.Reisang, Advocates appearing for Parties

Judgement

1. Heard Mr. Y. Nirmolchand Singh, learned counsel appearing on behalf of the petitioners as well as Mr. R.S. Reisang, learned G.A. appearing on behalf of the respondents.

2. By the order of this court dated 4.5.2006, the learned G.A. has been directed to take necessary instructions as to how the names of the petitioners have been left out while sending the list of the eligible Section Officers for appointment by promotion to the post of Assistant Engineer. The learned G.A. frankly submits that he could not get the instructions because of the strike of the Joint Action Committee for the employees of the Govt. of Manipur. It appears from the record that the facts which give rise to the filing of the present writ petition are simple and short.

3. The petitioners three in number are the degree holder Section Officer Grade I in the service of Public Health Engineering Department, Govt. of Manipur. It is said that they are all eligible for appointment by promotion to the post of the Assistant Engineer according to the relevant Recruitment Rules framed by the Governor of Manipur in exercise of the powers conferred under Article 309 of the Constitution of India vide notification dated 28.11.1984.

4. It is also said that the Government of Manipur, Department of Public Health Engineering prepared separate seniority lists of the Section Officers of Degree Holder and Section Officers of Diploma Holders. The tentative seniority lists of

Degree Holder Section Officer Grade I in the Public Health Engineering Department, Govt. of Manipur which had been circulated under the letter of the Chief Engineer, PHED dated 3.9.2004, had, later on, been finalized as a final seniority list of the Section Officers of Degree Holders is available at Annexure A/2 to the present writ petition. According to the said final seniority list of the Section Officers of Degree Holders, name of the petitioners appear at sl. No. 18, 29 and 30 respectively and those of the private respondents 3, 4 and 5 appear at sl. No. 40, 41 and 42 respectively. As such according to the learned counsel for the petitioner, the petitioners are undisputedly senior to the private respondents 3, 4 and 5 in the grade of Section Officer Grade I Degree Holders.

5. But, for the reasons best known to the respondents, the respondents while preparing the list of the Section Officer Grade I (Degree Holders) for consideration for appointment by promotion to the post of Assistant Engineer, the names of the petitioners had been left out while their juniors, i.e. the private respondents 3, 4 and 5, had been included. It is also submitted that as per the action taken up by the respondents for finalizing the list of the eligible Section Officer Grade I by promotion to the post of Assistant Engineer, the Surveyor of Works under his letter dated 6th February, 2006 to the Addl. Chief Engineer, all Superintending Engineers and all Executive Engineers of P.H.E. Department, Manipur only called/requisitioned the ACRs of the Section Officers Grade I for the purpose of holding DPC for appointment by promotion to the post of Assistant Engineer. In that letter dated 6.2.2006 under which the ACRs of the Section Officer Grade I had been requisitioned; the names of the petitioners are not included. Such being the situation, the learned counsel appearing for the petitioners submits that the petitioners have the reasonable apprehension that their cases are not going to be considered for promotion to the post of Assistant Engineers by the ensuing DPC. The learned counsel appearing for the petitioners also submits that since the petitioners three in number are eligible for appointment by promotion to the post of Assistant Engineers and also they are within the zone of consideration, their cases should be considered for appointment by promotion to the post of Assistant Engineers in the PHED.

6. Keeping in view of the above factual backgrounds and also the submissions of the learned counsel for the petitioners, this writ petition is disposed of by directing the state respondents to consider the case of the petitioners for appointment by promotion to the post of Assistant Engineers along with other eligible persons as and when the DPC sits for appointment by promotion to the post of Assistant Engineer from the eligible Section Officers Grade I in the PHED, Govt. of Manipur.

7. With the above observations and directions, this writ petition is allowed. No costs.